

Message Text

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FOLLOWING REPEAT BRASILIA 4336 SENT ACTION SECSTATE INFO
BONN JERUSALEM RIO DE JANEIRO SAO PAULO TEL AVIV VEINNA
WARSAW JUN 01.
QUOTE LIMITED OFFICIAL USE BRASILIA 4336

E.O. 11652: N/A

TAGS: SHUM, SREF, BR

SUBJECT: WAR CRIMINAL GUSTAV FRANZ WAGNER

REF: (A) BRASILIA 4305, (B) BRASILIA 4286, (C) SAO PAULO 1577

1. BRAZILIAN PRESS REPORTED JUNE 1 THAT GOB MINISTRY OF
JUSTICE PLACED ALLEGED WAR CRIMINAL GUSTAV FRANZ WAGNER
(REFTELS) UNDER PREVENTIVE CUSTODY ON MAY 31 AT THE REQUEST
OF FEDERAL REPUBLIC OF GERMANY. CUSTODY WAS FIXED AT 90 DAYS,
ACCORDING TO GOB LAW, DURING WHICH DOCUMENTATION SUPPORTING A
PETITION FOR EXTRADITION WOULD HAVE TO BE PRODUCED. FOREIGN
MINISTRY MAY 30 REQUESTED JUSTICE MINISTRY TO PLACE WAGNER
UNDER PREVENTIVE CUSTODY ON THE BASIS OF THE FRG PETITION.
SUBSEQUENTLY SAO PAULO GOVERNOR MARTINS ORDERED THE DEPARTMENT
OF POLITICAL AND SOCIAL POLICE (DOPS) TO TURN WAGNER OVER TO
THE BRAZILIAN FEDERAL POLICE, WHICH TOOK PLACE THE EVENING OF
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MAY 31. AT THE END OF 90-DAY CUSTODY PERIOD, DURING WHICH
JUSTICE MINISTRY WOULD STUDY DOCUMENTATION AND EXTRADITION
PETITION, CASE WOULD BE GIVEN TO SUPREME FEDERAL TRIBUNAL FOR
DECISION.

2. ACCORDING TO ARTICLE 90 OF GOB'S DECREE-LAW NO. 941 (1969),
EXTRADITION COULD BE MADE EITHER (A) TO THE STATE ON WHOSE

TERRITORY THE MOST SERIOUS CRIME, ACCORDING TO BRAZILIAN LAW, HAD BEEN COMMITTED; (B) TO THE STATE HAVING MADE THE PRIOR EXTRADITION REQUEST, THE CRIMES COMMITTED IN MORE THAN ONE STATE BEING OF EQUAL GRAVITY; OR (C) TO THE STATE OF ORIGIN OR DOMICILE OF THE PERSON BEING EXTRADITED. THE GOB HAS LEGAL DISCRETION TO DECIDE AMONG THE SEVERAL POSSIBILITIES. THE PRESS QUOTED AN AIDE TO JUSTICE MINISTER ARMANDO FALCAO TO THE EFFECT THAT PREFERENCE WAS GENERALLY GIVEN TO A STATE WITH AN EXTRADITION TREATY OR A RECIPROCAL COOPERATION ARRANGEMENT WITH BRAZIL. ACCORDING TO A LIST PROVIDED BY THE AID AND PUBLISHED IN JORNAL DE BRASILIA (JUNE 1), NONE OF THE FOUR CONCERNED PARTIES (FRG, AUSTRIA, POLAND, ISRAEL) HAS AN EXTRADITION TREATY WITH BRAZIL, ALTHOUGH THE FRG HAS COOPERATED WITH THE GOB ON EXTRADITION CASES IN THE PAST.

3. COMMENT. IT APPEARS THAT BRAZILIAN AUTHORITIES, IN THE FACE OF WIDESPREAD NATIONAL AND INTERNATIONAL MEDIA COVERAGE, ARE SCRUPULOUSLY CARRYING OUT THE LEGAL PROVISIONS OF GOB LAW IN HANDLING THE WAGNER CASE. DRAMATIC NATURE OF CASE WAS DEMONSTRATED EVENING ON MAY 31 IN TELEVISED CONFRONTATION BETWEEN WAGNER AND SOBIBOR SURVIVOR STANISLAW SZMAJZNER IN OFFICE OF SAO PAULO DOPS CHIEF SILVIO PEREIRA MACHADO. SZMAJZNER, AUTHOR OF BOOK "INFERNO AT SOBIBOR", GREETED WAGNER IN GERMAN AND ACCUSED HIM OF MURDERING HIS PARENTS AND COMMITTING NUMEROUS OTHER ATROCITIES. WAGNER REPEATEDLY MAINTAINED HIS INNOCENCE AND CHARGED THAT HE WAS VICTIM OF LIES. SAO PAULO POLICE LIMITED OFFICIAL USE

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OFFICIALS INDICATED TO CONGENOFF JUNE 1 THAT, EVEN LACKING DEFINITIVE IDENTITY DOCUMENTS, THEY WERE NEVERTHELESS SATISFIED THAT THE GUSTAV WAGNER HELD IN CUSTODY WAS INDEED A WANTED WAR CRIMINAL. THEY ALSO NOTED, IN RESPONSE TO CONGENOFF'S QUESTION, THAT WAGNER DID HAVE BRAZILIAN-BORN CHILDREN. SAYRE UNQUOTE CHRISTOPHER

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